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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,871	07/27/2006	Ralf Peter Mueller	785-012455-US (PAR)	7341
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PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			EXAMINER ALIE, GHASSEM	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 10/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,871

Applicant(s)

MUELLER ET AL.

Examiner

Ghassem Alie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-75 is/are pending in the application.
- 4a) Of the above claim(s) 42, 45-49, 57-67 and 70-75 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41, 43-44, 50-56, and 68-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 01/23/06&07/10/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Election/Restrictions

1. Applicant's election of Group I 9 (claims 41-56 and 64-69) and Subgroup IB (claims 44 and 50-52) in the reply filed on 09/17/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 42, 45-49, 57-67, and 70-75, are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim.

It should be noted that claims 48 and 49 are also canceled, since those claims depend from independent claim 1 which is cancelled.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feed back controlled drive set forth in claim 42; a motor set forth in claim 65; and the motor which is feed back controllable set forth in claim 66 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the

remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claim 41-47 and 50-75 are objected to because of the following informalities:

In all the claims 41-47 and 50-75, "characterised in that" should be -- characterized in that--.

In claim 1, "parallel to its axis" should be --parallel to a rotation axis of the blade and

"characterised in that it comprises" should be --characterized in that said slicing machine comprises--.

In claim 44, "characterised in that the cutting blade comprises a derive shaft (5) and in that the cutting blade (2) and/or the counterweight (4) is(are) mounted" should be --further includes a drive shaft, said cutting drive (2) and /or the counterweight (4) is/are mounted on the drive shaft (5)--.

In claim 50, "on a drive shaft (5) of the cutting blade" should be --on a drive shaft (5) of a cutting blade (2)--.

In claim 53, "to satabilise" should be --to stabilize--.

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In claim 53, "Use of counterweights" should be --A Method of using counterweights in a slicing machine--.

In claims 54-56, "Use according to claim" should be --Method of using counterweights according to claim--.

In claim 55, "a slicing machine" should be --the slicing machine--.

In claims 64-69, "A device according to claim" should be --A slicing machine according to claim--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 41-47, 50-56, and 64-69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

7. Claims 41-47, 53-56, 64-69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, "slicing food products (1), in particular blocks of sausage, meat or cheese" renders the claim indefinite. It is not clear what is the scope of the claim and what food products are included or excluded.

In claim 46, "the thread (13, 14)" lacks antecedent basis.

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Regarding claim 53, it is what is claimed. The claim does not have a transitional phrase such as including, comprising, or characterized in that. It is also not clear where the cutting blade is mounted. In fact, the counterweight is not positively claimed.

In claim 54, “forces and/or moments arising during displacement of the blade are compensated” is not clear. It is not clear what compensate the forces and the moments.

In claim 55, “the zero point” lacks antecedent basis.

In claim 56, “the drive” and “the torque” lack antecedent basis.

In claim 64, “in the adjusting limit stop” lacks antecedent basis.

In claim 67, “the adjusting of limit stop” and “the width of the cutting gap” lack antecedent basis.

In claim 68, “the cutting gap” lacks antecedent basis.

In claim 69, “the axial position of the blade” and “the adjusting limit stop” lack antecedent basis

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

a person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 41, 43-44, 50-54 and 68-69, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Weber (WO 03/028963 A1). Regarding claim 41, Weber teaches a slicing machine including a rotating cutting blade 10, which is mounted so as to be displaceable parallel to the axis of rotation of the blade. Weber also teaches that the slicing

machine 1 also includes a counterweight which may be displaced in the opposite direction from the cutting blade 10. It should be noted that the flange or end portion of the first part 5 defines the counterweight. It should be noted that a counterweight is interpreted as any weight that counters the weight of the blade. In this case, any part of the spindle or drive shaft that counters the weight of the blade is considered to be a counterweight. The counterweight may be moved in an opposite direction independent from the direction of the blade 10 by at least rotation of the threaded rod. See Fig. 1 and the translated abstract in Weber.

Regarding claims 43-44 and 68-69, Weber teaches everything noted above including that the displacement of the cutting blade 10 takes place independently of the rotational speed of the cutting blade; the cutting blade includes a drive shaft 5 the cutting blade is mounted to the drive shaft so as to be displaced along the drive shaft 5; the cutting gap also could be effected when the blade is stationary or rotating; and the axial position of the blade is not changed after it has come onto contact with the adjusting limit stop. It should be noted that the upward protrusion of the end portion of the drive shaft 5 is considered to be the adjustment limit with could be considered as a zero position where the axial position of the blade is not changed.

Regarding claims 50-52, Weber teaches everything noted above including a method for axial displacement of the cutting blades during operation. Weber also teaches a counterweight on a drive shaft 5 pf the cutting blade 10 is displaced in the opposite direction from the cutting blade 10. Weber also teaches that the displacement is effected

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synchronously, and the displacement of the cutting blade 10 and the counterweight is effected by a drive 2.

Regarding claims 53-54, Weber teaches everything noted above including a use of counterweights displaceably axially in the opposite direction from a cutting blade 10 to stabilize running of the cutting blade 10 of a slicing machine, which blade is mounted so as to be displaceable parallel to a rotation axis of the blade. In addition, Weber teaches that the forces and/or movements arising during displacement of the blade are inherently compensated.

10. Claims 41, 43-44, 53-54 and 68-69, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt (DE 101 55 408 A1). Regarding claim 41, Schmidt teaches a slicing machine including a rotating cutting blade 5 which is mounted so as to be displaceable parallel to the axis of rotation of the blade. Schmidt also teaches that the slicing machine includes a counterweight 5' which may be displaced in the opposite direction from the cutting blade. It should be noted that the counterweight is defined by other blade or disc 5' that is independently displaceable with respect to the blade 5. The displacement mechanism 15 could displace the blade 5 independently in opposite direction than the counterweight 5'. See Figs. 1-5 and abstract translations in Schmidt. It should be noted that the abstract translation of Schmidt is included in this Office Action.

Regarding claims 43-44 and 68-69, Schmidt teaches everything noted above including that the displacement of the cutting blade 5 takes place independently of the rotational speed of the cutting blade; the cutting blade includes a drive shaft 4 the cutting blade is mounted to the drive shaft so as to be displaced along the drive shaft 4; the cutting

gap also could be effected when the blade is stationary or rotating; and the axial position of the blade is not changed after it has come onto contact with the adjusting limit stop. It should be noted that the slicing machine inherently includes a portion that limits the axial displacement of the blade 5. This could be considered as a zero position where the axial position of the blade is not changed. It should also be noted that the adjustment mechanism 15 inherently includes a limit that limits the adjustment of the blade. This also could be considered as an adjusting limit stop.

Regarding claims 53-54, Schmidt teaches everything noted above including a use of counterweights displaceably axially in the opposite direction from a cutting blade 5 to stabilize running of the cutting blade 5 of a slicing machine, which blade is mounted so as to be displaceable parallel to a rotation axis of the blade. In addition, Schmidt also teaches that the forces and/or movements arising during displacement of the blade are inherently compensated.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 50-52, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt. Regarding claims 50-52, Schmidt teaches everything noted above including a method for axial displacement of the cutting blades during operation. Schmidt

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also teaches a counterweight 5' on a drive shaft 4 of the cutting blade 5 is capable of being displaced in the opposite direction from the cutting blade. Schmidt also teaches that the displacement is effected synchronously, and the displacement of the cutting blade 10 and the counterweight is effected by a drive. Schmidt does not explicitly teach that the counterweight 5' moves in opposite direction than the blade 5. However, it would have been obvious to a person of ordinary skill in the art to move the counterweight in Schmidt's slicing machine device in an opposite direction than the blade, since the slicing machine is cable of performing this function and it would produce the same result which is adjusting the distance between the counterweight 5' and the cutting blade 5.

13. Claims 55-56, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber or Schmidt. Regarding claim 55-56, Weber or Schmidt teaches everything noted above, but Weber or Schmidt does not explicitly teach that the zero point may be adjusted by axial displacement of the cutting blade and the torque of the drive of the cutting blade is measured during displacement. However, Official Notice is taken that the use of zero adjustment mechanism for the rotating blade and torque measuring of a drive if a rotating blade is well known in the art such as is evidence in Weber (W0 03/022537).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Krass et al. (2001/0054345), Walter (2,047,399), and Lindee et al. (5,649,463) teach an apparatus including a rotating blade and a counterweight.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ghassem Alie
Patent Examiner
Art Unit 3724



GA/ga

October 22, 2007